

Message Text

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PAGE 01 PRETOR 03148 201333Z

43

ACTION AF-06

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15 USIA-15 /063 W

----- 130948

R 201119Z AUG 75

FM AMEMBASSY PRETORIA

TO SECSTATE WASHDC 2522

INFO AMCONSUL CAPE TOWN

AMCONSUL DURBAN

AMCONSUL JOHANNESBURG

UNCLAS PRETORIA 3148

E.O. 11652: N/A

TAGS: PINT, PINS, SF, SHUM

SUBJ: SAG WINS TWO IMPORTANT COURT CASES

REFS: (A) CAPE TOWN 356, (B) DURBAN A-71,
(C) CAPE TOWN 790, (D) CAPE TOWN 857 (ALL 1974)

1. APPELLATE DIVISION OF SOUTH AFRICA'S SUPREME COURT IN BLOEMFONTEIN ISSUED RULINGS ON TWO CASES AUGUST 19 WHICH WILL DISTRESS THOSE WHO HOPED FOR MORE LIBERAL APPLICATION OF PASS LAWS AND BANNING ORDERS. IN BOTH INSTANCES, COURT UPHELD SAG CONTENTIONS WHICH ARGUED FOR NARROW INTERPRETATIONS OF RESTRICTIVE LEGISLATION. CASES INVOLVED IMPLEMENTATION OF PASS LAWS AND EXECUTIVE PRIVILEGE REGARDING BANNING ORDERS.

2. IN PASS LAW CASE BLOEMFONTEIN COURT OVERTURNED VERDICT OF NATAL SUPREME COURT (REFS A AND B) WHICH RULED IN JULY 1974 THAT AN AFRICAN HAD BEEN WRONGLY JAILED BECAUSE THE BLACK POLICEMAN WHO ARRESTED HIM HAD NOT GIVEN HIM THE OPPORTUNITY TO TRAVEL TO HIS EMPLOYERS OFFICE (20 MILES AWAY) TO COLECT HIS REFERENCE (PASS) BOOK. JULY 1974 NATAL COURT DECISION HAD BEEN WELCOMED BY WHITE LIBERALS AND BLACKS AS PERHAPS INDICATING THAT AFRICANS NEED NOT CARRY "DOMPASSES" AT ALL TIMES. AS THIS WOULD STRIKE AT UNCLASSIFIED

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THE VERY HEART OF SAG'S INFLUX CONTROL MECHANIZM, GOVERN-

MENT REACTED STRONGLY AND APPEALED DECISION. AUGUST 19 RULING HELD THAT LOWER COURT HAD TOO LOOSELY INTERPRETED SECTION OF PASS LAW LEGISLATION. IT SUSTAINED GOVERNMENT AUGUMENT THAT APPLICABLE LEGISLATION DEMANDS THAT AFRICANS CARRY PASS BOOK ON PERSON OR HAVE IT IN A PLACE WHERE IT CAN RAPIDLY PRODUCED. COURT HELD THAT PASS BOOK LOCKED IN OFFICE 20 MILES AWAY COULD NOT BE PRODUCED " SPEEDILY AND URGENTLY" AND THAT THEREFORE AFRICAN WAS DISOBEYING LAW AND HIS ARREST NOT IMPROPER.

3. THE SECOND CASE, COURT SUSTAINED GOVERNMENT'S APPEAL OF CAPE SUPREMEM COURT RULING IN NEVILLE ALEXANDER CASE (REFS C AND D). DETAILS OF AUGUST 19 DECISION NOT YET AVAILABLE, BUT APPARENTLY BLOEMFONTEIN COURT UPHELD GOVERNMENT'S CONTENTION THAT MINISTER OF JUSTICE IS SOLE ARBITER IN DETERMINING WHAT INFORMATION AND EVIDENCE USED IN ESTABLISHING BANNING ORDERS MAY BE MADE PUBLIC. COURT THUS OVER- RULED CAPE COURT'S DECISION ORDERING MIN JUSTICE TO SHOW PERTINENT DOCUMENTS TO COURT IN CAMERA OR TO PRESENT AFFIDAVIT OUTLINING NATURE OF DOCUMENTS IN HIS POSSESSION, ALEXANDER HAD BEEN BANNED UPON HIS RELEASE FROM TEN YEARS OF DETENTION ON ROBBEN ISLAND.

4. DETAILS OF BOTH DECISIONS AND FURTHER IMPLICATIONS WILL BE REPORTED SEPARATELY.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PARAMILITARY FORCES, COMMUNISM, SUPREME COURT, POLICIES, POLITICAL PRISONERS, COURT DECISIONS, POLITICAL TRIALS
Control Number: n/a
Copy: SINGLE
Draft Date: 20 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975PRETOR03148
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750288-0025
From: PRETORIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750835/aaaabepb.tel
Line Count: 87
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AF
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 CAPE TOWN 356, 75 DURBAN A-71
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 05 DEC 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 DEC 2003 by ThomasVJ>; APPROVED <02 JAN 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SAG WINS TWO IMPORTANT COURT CASES
TAGS: PINT, PINS, SHUM, SF
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006